

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----	X	
	:	
UNITED STATES OF AMERICA,	:	
	:	<u>ORDER</u>
	:	
- against -	:	21-cr-371 (BMC)
	:	
	:	
AL MALIK ALSHAHHI, <i>et al.</i> ,	:	
	:	
Defendants.	:	
	:	
-----	X	

COGAN, District Judge.

Two of the Government's [266/267, 271/272] motions *in limine* are resolved as follows.

1. The Government's [266/267] motion *in limine* to preclude testimony by defense expert witness Daniel N. Hoffman is denied as moot. Defendants have now provided the Government with a summary of their expert's anticipated testimony, and the Government has not objected to the completeness or timeliness of this disclosure.

2. The Government's [271/272] request to exclude certain evidence as inadmissible hearsay is denied in part and granted in part.¹

a. BX 170 and BX 183 are admissible for the non-hearsay purpose of demonstrating the nature of the relationship between Barrack and Al Malik.

¹ The Court resolved other issues raised in the motion related to defendants' use of certain exhibits on cross-examination in an oral ruling on October 3, 2022.

- b. BX 180 is admissible for the non-hearsay purpose of showing that Gibbs forwarded the Italian Prime Minister's contact information to then President-elect Trump's secretary.
- c. GE 22 is admissible to show Grimes' state of mind as an "endlessly loyal servant" of Barrack.
- d. GE 28 and GE 29 are admissible as business records.
- e. GE 61 is admissible so long as defendants establish authenticity.
- f. GE 75 is admissible because Grimes' command to "send along – per TJB" is not hearsay. See Cameron v. New York City Dep't of Educ., No. 15-cv-9900, 2018 WL 1027710, at *5 (S.D.N.Y. Feb. 21, 2018) ("In general, commands are not hearsay unless they are used to prove the truth of an implicit assertion.").
- g. GE 92A and GE 92B are admissible to show the state of mind of the declarant in planning the referenced dinner.
- h. GE 104 is admissible, if not already admitted, to show the state of mind of defendants and the relationship between them.
- i. GE 134, GE 136, and GE 137 are admissible, if not already admitted, as non-hearsay commands and to show the nature of the relationship between defendants.

SO ORDERED.

Digitally signed by
Brian M. Cogan

Dated: Brooklyn, New York
October 7, 2022